

e. *Projected Life-Cycle Savings.* For each PIF project provide the estimated amount of savings the project is projected to earn over the project's economic life.

f. *Projected Life-Cycle Cost Avoidance.* For each PIF project provide the estimated amount of cost avoidance the project is projected to achieve.

2. *PEIF.* Each DoD Component that has funded PEIF projects must annually report summary information that includes:

a. *Total Number of Projects.*

b. *Total Funds Provided.*

c. *Total Amount Obligated.*

d. *Total Projected Life-Cycle Savings.*

e. *Total Projected Life-Cycle Cost Avoidance.*

3. *CSI.* Each DoD Component that has funded CSI projects must annually report summary information that includes:

a. *Total Number of Projects.*

b. *Total Funds Provided.*

c. *Total Amount Obligated.*

d. *Total Projected Life-Cycle Savings.*

e. *Total Projected Life-Cycle Cost Avoidance.*

4. *PIA* Post-Investment assessments, articles, pictures, and brief description of projects and their results are encouraged and may be attached to the annual report or submitted throughout the year.

## PART 165—RECOUPMENT OF NON-RECURRING COSTS (NCs) ON SALES OF U.S. ITEMS

Sec.

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AUTHORITY: 22 U.S.C. 2761(e)(1)(B); 22 U.S.C. 2761 (e)(2); and 22 U.S.C. 2767(b)

SOURCE: 78 FR 31400, May 24, 2013, unless otherwise noted.

### § 165.1 Purpose.

This part updates policy, responsibilities, and procedures to conform with 22 U.S.C. 2761(e)(1)(B), 2761 (e)(2), and 2767(b) (also known as “sections 21(e)(1)(B), 21(e)(2), and 27(b) of the Arms Export Control Act, as amended”) for calculating and assessing NC recoupment charges on sales of items developed for or by the Department of Defense to non-U.S. Government customers.

### § 165.2 Applicability.

(a) This part applies to the Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the “DoD Components”).

(b) This part does not apply to sales of excess property when accountability has been transferred to property disposal activities and the property is sold in open competition to the highest bidder.

### § 165.3 Definitions.

The following definitions apply to this part.

*Blanket waiver.* An NC recoupment charge waiver that is not related to a particular sale; for example, waivers for all sales to a country or all sales of a weapon system.

*Cooperative projects.* Defined in 22 U.S.C. 2767(b).

*Cost pool.* The total cost to be distributed across the specific number of units, normally the number of units produced plus those planned to be produced. The nonrecurring research, development, test, and evaluation cost pool comprises the costs described in the definition for nonrecurring research, development, test and evaluation costs in this section. The nonrecurring production cost pool comprises costs described in the definition for nonrecurring production costs.

*Foreign military sale.* A sale by the U.S. Government (U.S.G.) of defense items or defense services to a foreign government or international organization pursuant to 22 U.S.C. Chapter 39.

*Major defense equipment.* Any item of significant military equipment on the United States Munitions List having a nonrecurring research, development, test, and evaluation cost of more than 50 million dollars or a total production cost of more than 200 million dollars. The determination of whether an item meets the major defense equipment dollar threshold for research, development, test, and evaluation shall be

based on DoD obligations recorded to the date the equipment is offered for sale. Production costs shall include costs incurred by the Department of Defense. Production costs for the foreign military sales program and known direct commercial sales production are excluded.

*Model.* A basic alpha-numeric designation in a weapon system series (e.g., a ship hull series, an equipment or system series, an airframe series, or a vehicle series). For example, the AN/TPQ-36(V)2 and the (AN/TPQ-36(V)10 are different models in the same radar system series.

*Nonrecurring production costs.* Those one-time costs incurred in support of previous production of the model specified and those costs specifically incurred in support of the total projected production run. Those NCs include DoD expenditures for preproduction engineering; special tooling; special test equipment; production engineering; product improvement; destructive testing; and pilot model production, testing, and evaluation. That includes costs of any engineering change proposals initiated before the date of calculations of the NC recoupment charge. Nonrecurring production costs do not include DoD expenditures for machine tools, capital equipment, or facilities for which contractor rental payments are made or waived in accordance with the Defense Federal Acquisition Regulation Supplement.<sup>1</sup>

*Nonrecurring research, development, test and evaluation costs.* Those costs funded by a research, development, test, and evaluation appropriation to develop or improve the product or technology under consideration either through contract or in-house DoD effort. This includes costs of any engineering change proposal started before the date of calculation of the NC recoupment charges as well as projections of such costs, to the extent additional effort applicable to the sale model or technology is necessary or planned. It does not include costs funded by either procurement or operation and maintenance appropriations.

*Pro rata recovery of NCs.* Equal distribution (proration) of a pool of NCs to a specific number of units that benefit from the investment so that a DoD Component shall collect from a customer a fair (pro rata) share of the investment in the product being sold. The production quantity base used to determine the pro rata calculation of major defense equipment includes total production.

*Significant change in NCs recoupment charge.* (1) A significant change in an NC recoupment charge occurs when:

(i) A new calculation shows a change of 30 percent of the current system NC charge.

(ii) The NC unit charge increases or decreases by 50,000 dollars or more, or

(iii) Where the potential for a 5 million dollar change in recoupment exists.

(2) The total collections may be estimated based on the projected sales quantities. A significant change occurs when potential collections increase or decrease by 5 million dollars.

*Special research, development, test, and evaluation and nonrecurring production costs.* Costs incurred under a foreign military sale at the request of, or for the benefit of, a foreign customer to develop a special feature or unique or joint requirement. Those costs must be paid by the customer as they are incurred.

#### § 165.4 Policy.

It is DoD policy that:

(a) The NC recoupment charge shall be imposed for sales of major defense equipment only as required by an Act of Congress. The USD(P), through the Defense Security Cooperation Agency, may grant a waiver to recoupment charges in accordance with in accordance with this part and DoD Directive 5105.65.”<sup>2</sup>

(b) The NC charges shall be based on the amount of the Department of Defense nonrecurring investment in an item.

#### § 165.5 Responsibilities.

(a) Under Secretary of Defense (Comptroller)/Chief Financial Officer

<sup>1</sup>Available at <http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>.

<sup>2</sup>Available at <http://www.dtic.mil/whs/directives/corres/pdf/510565p.pdf>.